

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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DEC 29 2003

In the Matter of

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Amendment of Section 73.202(b)

MB Docket No. 02-76

Table of Allotments,

RM-10405

FM Broadcast Stations.

RM-10499

(Crisfield, Maryland; Belle Haven, Cape

Charles, Exmore, Nassawadox, and Poquoson,

Virginia)

To: Marlene H. Dortch, Office of the Secretary
Attn: The Chief, Media Bureau

REPLY COMMENTS

Bay Broadcasting, Inc. ("Bay"), by its attorneys, and pursuant to Section 1.429 of the Commission's Rules, hereby replies to the *Consolidated Response to Petitions for Reconsideration* filed by Commonwealth Broadcasting, L.L.C., and Sinclair Telecable, Inc., dba Sinclair Communications (collectively "Sinclair"), on December 17, 2003, in the above captioned proceeding. In support thereof, Bay states the following:

1. On November 17, 2003, Bay filed its *Petition for Reconsideration* (the "Petition") in the above captioned proceeding. In its Petition, Bay requested that the Commission reconsider its decision with respect to the requested Channel 250A allotment at Crisfield, Maryland. Specifically, Bay presented evidence refuting the Bureau's conclusions in this proceeding and establishing that the transmitter site proposed in Bay's initial *Petition for Rule Making* is both located on dry ground and would provide a 70 dBu signal broadcast that will encompass the entire inhabitable area of Crisfield. Bay also provided the Commission with an alternate, technically feasible transmitter site that will allow for the transmission of a signal whose principal community contour will encompass the entire community boundaries of Crisfield, including uninhabitable wetlands and tidal areas.

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2. In order to accommodate the allotment of Channel 250A at Crisfield, Bay proposed the allotment of Channel 252A at Belle Haven, Virginia (instead of Channel 250B1, which was allotted to Belle Haven pursuant to the *Report and Order* in this proceeding).¹

3. In response to Bay's Petition, Sinclair, the Belle Haven proponent, has accepted the allotment of Channel 252A at Belle Haven.² Therefore, the Commission, as requested in Bay's Petition, should reconsider the *Report and Order* in this proceeding, substitute Channel 250A for Channel 245A at Crisfield, Maryland, and modify the license of Station WBEY(FM), Crisfield, Maryland, to reflect this substitution. Further, the Commission should allot Channel 252A at Belle Haven, Virginia as requested by Bay and agreed to by Sinclair.

Respectfully submitted,

BAY BROADCASTING, INC.

By: Barry A. Friedman (by MNL)
Barry A. Friedman
Thompson Hine LLP
1920 N Street, N.W., Suite 800
Washington, DC 20036
(202) 331-8800

Of Counsel:

Mark N. Lipp
Mark N. Lipp
Vinson & Elkins, LLP
1445 Pennsylvania Avenue, NW
Washington, D.C. 20004
(202) 639-6500

Dated: December 29, 2003

¹ Bay did not ask for an allotment at Belle Haven, Virginia in this proceeding. This request was made by Sinclair in its *Comments and Counterproposal* filed on June 3, 2002. However, if an allotment is necessary at Belle Haven, Bay requests, with Sinclair's acquiescence, that the Commission allot Channel 252A at Belle Haven.

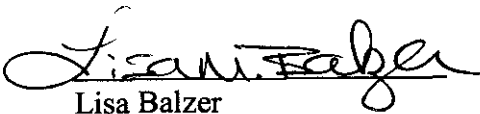
² *Consolidated Response to Petitions for Reconsideration* at ¶ 1 (filed December 17, 2003).

CERTIFICATE OF SERVICE

I, Lisa Balzer, a secretary in the law firm of Vinson & Elkins, do hereby certify that on this 29th day of December, 2003, I caused copies of the foregoing "**Reply Comments**" to be mailed, first class postage prepaid, or hand delivered, addressed to the following persons:

Howard M. Weiss
Fletcher, Heald & Hildreth, PLLC
1300 North 17th Street, 11th Floor
Arlington, VA 22209-3801

Gary Smithwick
Smithwick & Belendiuk
5028 Wisconsin Avenue, NW
Washington, DC 20016


Lisa Balzer